

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY**

UNITED STATES OF AMERICA,)
)
) *Plaintiff,*)
)
 vs.)
)
 SUIZA FOODS CORPORATION,)
)
) **d/b/a Louis Trauth Dairy,**)
) **Land O' Sun Dairy, and**)
) **Flav-O-Rich Dairy, and**)
)
 BROUGHTON FOODS COMPANY,)
)
) **d/b/a Southern Belle Dairy,**)
)
) *Defendants.*)

Civil Action No.

**MOTION OF UNITED STATES FOR
PRELIMINARY INJUNCTION**

Comes the plaintiff, the United States of America, pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and Rule 65 of the Federal Rules of Civil Procedure, and respectfully moves the Court for the entry of a Preliminary Injunction enjoining defendants Suiza Foods Corporation (“Suiza”) and Broughton Foods Company (“Broughton”), and all persons acting on their behalf, from consummating or taking any action to proceed with their proposed sale and acquisition described in the Complaint, or from going forward with any other plan or agreement by which Broughton would be combined with Suiza pending entry by the Court of a final judgment in this action.

This motion is based on the following grounds:

(1) The United States has filed a Complaint alleging that the proposed acquisition by Suiza of Broughton would violate Section 7 of the Clayton Act, 15 U.S.C. § 18.

(2) Unless restrained and enjoined by this Court, defendants may proceed with their proposed sale and acquisition before this Court can enter a final judgment.

(3) There is a substantial likelihood that plaintiffs will establish at trial that the proposed sale and acquisition violates Section 7 of the Clayton Act, 15 U.S.C. § 18.

(4) The public interest in vigorous competition in the sale of milk to schools in Kentucky would be irreparably harmed if defendants proceed with the proposed acquisition before entry of a final judgment. Plaintiffs would have no adequate remedy at law, and this Court's ability to fashion effective relief would be significantly impaired if the proposed acquisition proceeds but is found, after trial, to be unlawful.

(5) Any harm to defendants from enjoining their proposed acquisition would be outweighed by the potential anticompetitive effects, including the threat of increased prices to schools, posed by the proposed acquisition.

(6) Granting the requested preliminary relief will serve the public interest.

(7) This Court has authority under Section 15 of the Clayton Act, 15

U.S.C. § 25, to issue the requested preliminary relief.

This Motion is supported by the attached Memorandum in Support of United States' Motion for a Preliminary Injunction.

WHEREFORE, the United States respectfully moves the Court for entry of the Preliminary Injunction tendered herewith.

Dated: March 18, 1999

Respectfully Submitted,

/s/
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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing, together with a copy of any Order or Judgment the United States proposes in connection therewith, has been served by telecopier and by mail to:

Suiza Foods Corporation
c/o Paul T. Denis, Esq.
Myles R. Hansen, Esq.
ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004

Broughton Foods Company
c/o Thomas J. Murray, Esq.
Daniel J. Konrad, Esq.
HUDDLESTON, BOLEN, BEATTY, PORTER & COPEN
611 Third Avenue
Suite 4000
Huntington, WV 25722

On this the 18 day of March, 1999.

_____/s/_____
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